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June 14, 2021

Hon. Gary R. Brown
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Chrysafis et al. v. Marks et al.*
Docket No.: 2:21-CV-02516 (GRB) (AYS)

Dear Judge Brown:

On behalf of the Honorable Judge Lawrence K. Marks, we write to object to the Plaintiffs' latest application seeking an emergency injunction pending appeal of your Honor's Memorandum and Order dated June 11, 2021.

While Plaintiffs have indicated that they intend to seek relief at the Second Circuit, they are now seeking an emergency injunction while they appeal this Court's decision, based solely on your Honor's finding that Plaintiffs would likely suffer irreparable harm due to continued enforcement of CEEFPA. However, as the Court is well aware, to succeed on their quest for an injunction, Plaintiffs had to establish—but did not—a likelihood of success on the merits of their application. Notably, Your Honor found that the "State's actions fell well within the realm of reasonableness". [P. 19, decision and order]. With respect to the various constitutional challenges to CEEFPA, Your Honor held that "[P]laintiffs' remaining challenges are easily dispatched". [P. 20, decision and order]. Since Plaintiffs failed to demonstrate that they would be meritorious, this Court need not address the other prongs of the analysis; instead, it can and should deny Plaintiffs' injunction request based solely upon the lack of a likelihood of success on the merits. *See Oneida Nation of N.Y. v. Cuomo*, 645 F.3d 154, 164 (2d Cir. 2011).

Additionally, the appellate standard of review is whether the district court's decision to grant or deny a preliminary injunction was an abuse of discretion. *Id.* An abuse of discretion occurs if the district court "(1) based its ruling on an erroneous view of the law, (2) made a clearly erroneous assessment of the evidence, or (3) rendered a decision that cannot be located within the range of permissible decisions." *Id.* (citations omitted). "Under abuse of discretion review, the factual findings and legal conclusions underlying the district court's decision are evaluated under the clearly erroneous and de novo standards, respectively." *Id.* (citations and internal quotations omitted). Plaintiffs have not argued, or indeed, even alleged, that your Honor has committed such an abuse of discretion in denying the preliminary injunction.

Because Plaintiffs have not made the requisite showing entitling them to the extraordinary relief that they seek, this Court should not reconsider its ruling, and should instead deny the instant application.

Thank you for your time and consideration.

Respectfully,

Lori L. Pack
Assistant Attorney General

cc: all counsel via ECF